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Attorneys for Defendant,

**British Motor Cars Distributors, Ltd
dba Land Rover San Francisco**

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

PAUL CHIU, an Individual; and all
other members of the general public
similarly situated;

Plaintiffs,

vs.

PENDRAGON NORTH AMERICA,
INC. dba HORNBURG JAGUAR
LAND ROVER SANTA MONICA,
HORNBURG LOS ANGELES,
JAGUAR LAND ROVER NEWPORT
BEACH, JAGUAR LAND ROVER
MISSION VIEJO, and HORNBURG
LAND ROVER HOLLYWOOD, a
California Corporation;
AUTONATION, INC. dba LAND
ROVER SOUTH BAY and LAND
ROVER ENCINO, a Delaware
corporation; 20 SILVER STAR A.G.

CASE NO.:

**NOTICE OF REMOVAL OF
ACTION PURSUANT TO 28 U.S.C.
§1441(a) ORIGINAL
JURISDICTION**

Assigned To:
Dept:

LTD dba LAND ROVER THOUSAND
 OAKS, a California corporation;
 SYMES MOTORS, INC. dba RANGE
 ROVER LAND ROVER PASADENA,
 a California Corporation; ANAHEIM
 HILLS JAGUAR LAND ROVER, INC.
 dba JAGUAR LAND ROVER
 ANAHEIM HILLS, a California
 corporation; RP AUTOMOTIVE, INC.
 dba PENSKE JAGUAR LAND
 ROVER CERRITOS, a California
 corporation; TERRY YORK MOTOR
 CARS, LTD. dba LAND ROVER
 ENCINO, a California Corporation;
 HOEHN MOTORS, INC. dba
 JAGUAR LAND ROVER
 CARLSBAD, a California corporation;
 BRITISH MOTOR CARS
 DISTRIBUTOR LTD dba LAND
 ROVER OF SAN FRANCISCO, a
 California corporation; INDIGO AUTO
 GROUP CALIFORNIA LLC dba
 LAND ROVER RANCHO MIRAGE, a
 Delaware limited liability company;
 JAGUAR LAND ROVER
 MONTEREY, an unknown business
 entity; LAND ROVER MARIN, an
 unknown business entity; HOLMAN
 AUTOMOTIVE GROUP, INC. dba
 LAND ROVER SAN DIEGO, a New
 Jersey corporation; LAND ROVER
 ROCKLIN, an unknown business
 entity; LAND ROVER SAN JOSE, an
 unknown business
 entity; LAND ROVER SANTA
 BARBARA, an unknown business
 entity; HARON MOTOR SALES, INC.
 dba HARON JAGUAR LAND
 ROVER, a California corporation;
 JAGUAR LAND ROVER NORTH
 AMERICA, LLC, a Delaware limited
 liability company; LIVERMORE

1 LAND ROVER JAGUAR, an unknown
2 business entity; LAND ROVER
3 JAGUAR VENTURA, an unknown
4 business entity; LAND ROVER
5 SACRAMENTO, an unknown business
6 entity; LAND ROVER REDWOOD
7 CITY, an unknown business entity;
8 SAMI OHEB, an Individual;
9 JENNIFER KIM, an Individual;
10 GILLIAN PENITENTI, an Individual;
11 and DOES 1-250, Inclusive,

Defendants.

12 **TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

13 PLEASE TAKE NOTICE that defendant British Motor Cars Distributors,
14 Ltd dba Land Rover San Francisco, hereby removes to this Court the California
15 state court action described below.

16 1. On July 11, 2018 an action was commenced in the Superior Court of the
17 State of California in and for the County of Orange, entitled *Paul Chiu, et al.,*
18 *Plaintiffs, v Pendragon North America, Inc., et al.,* Defendants, filed as Case
19 Number 30-2018-01004633-CU-MC-CXC. A copy of the complaint is attached
20 hereto as **Exhibit A**.

21 2. The first date upon which defendant British Motor Car Distributors, Ltd.
22 dba Land Rover of San Francisco received a copy of the complaint was August 1,
23 2018, when defendant British Motor Cars Distributors, Ltd. dba Land Rover of San
24 Francisco, erroneously sued as British Motor Cars Distributors, LTD. (“British
25 Motor”) was served with a copy of the summons and complaint in the state court
26 action. A correct copy of the summons and complaint served on British Motor is
27 attached hereto as **Exhibit B**.

28 3. This is a civil action of which this Court has original jurisdiction
pursuant to the Class Action Fairness Act (“CAFA”), Pub. L. 109-2, 119 Stat. 4

(2005), codified at 28 U.S.C. § 1332(d), and is one which may be removed to this Court by defendant under 28 U.S.C. §§ 1441(a) and 1453(b), subject to amount in controversy and diversity of citizenship requirements. Specifically, 28 U.S.C. § 1332(d) states in pertinent part:

(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and is a class action in which—

...

- (A) any member of a class of plaintiffs is a citizen of a State different from any defendant;
- (B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State;
- (C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

Amount in Controversy

4. The \$5,000,000 amount in controversy requirement of 28 U.S.C. § 1332(d)(2) is satisfied on the face of plaintiff's complaint.

5. The sub-classes are defined as:

- a. "the 'Chinese National Origin Class' consisting of all persons of Chinese National Origin who lawfully entered the State of California and attempted to purchase or lease a new Land Rover vehicle but were prevented from doing so because of their national origin;"
- b. "the 'Chinese-American Citizen Class' consisting of all persons of Chinese descent who are legal residents or citizens of the State of California and who attempted to purchase or lease a new Land Rover vehicle but were prevented from doing so because of their actual or perceived residency, national origin, immigration status, residence, citizenship, and or race;"
- c. "the 'Chinese National Origin Class' consisting of all persons of

Chinese National Origin who lawfully reside in the State of California and who attempted to purchase or lease a new Land Rover vehicle but were prevented from doing so because of their national origin within the four years preceding the filing of the complaint,”

d. “the ‘Asian Class’ consisting of all persons of actual or perceived Asian descent who attempted to purchase or lease a new Land Rover vehicle but were prevented from doing so because of their actual or perceived national origin, residency, immigration status, citizenship, and or race....” (Complaint, ¶ 68.)

6. The Complaint alleges that there are “1,064 individual members of the proposed classes and subclasses.” (Complaint, ¶ 73.) Despite having pled the preceding exact number, Plaintiff elsewhere alleges that “[i]t is estimated that the Classes consists of more than 1,000 individuals who are actually, or perceived to be, of Asian descent who reside in the State of California.” (Complaint, ¶ 76.)

7. Plaintiff is aware that that the number of individual members is greater than the 1,064 plead currently in the instant action. Notably, in Plaintiff’s original action filed in Los Angeles Superior Court which was later removed to federal court, Plaintiff alleged that the members of the class were: “It is estimated that the Classes consists of thousands of persons throughout the People’s Republic of China and throughout the State of California.” *Chiu v. Pendragon North America, Inc. et al.*, Case No. 2:17-cv-02877, Notice of Removal, Exhibit A, ¶ 169, filed 4/17/17. A copy of the 2017 Notice of Removal attaching the Los Angeles Superior Court complaint is attached hereto as **Exhibit C**.

Plaintiff voluntarily dismissed the federal action and subsequently filed the instant matter in Orange County Superior Court. Plaintiff is represented by the same counsel that represented him in the previous action originally filed in Los Angeles Superior Court.

8. The complaint further alleges that plaintiff Paul Yung Chin Chiu (“Chiu”) was prevented from purchasing a new Land Rover from Jaguar, Land Rover Newport Beach (Complaint, ¶¶ 53-56), from Hornburg Jaguar Land Rover Santa Monica (Complaint, ¶¶ 57-58), from Hornburg Land Rover Hollywood (Complaint, ¶ 59), and from British Motor Cars Distributors, Ltd. dba Land Rover of San Francisco (Complaint ¶¶ 60-61) due to his actual or perceived Asian descent and/or national origin.

9. The complaint seeks statutory penalties of \$4,000 per violation and alleges the violations are refusals of dealerships to sell cars. (Complaint, ¶ 83; Complaint Prayer for Relief, page 23.)

10. Plaintiff alleges that “the Defendant's common course of unlawful conduct has caused the Plaintiffs and Class members to sustain the same or similar injuries and damages caused by the same practices of the Defendants.” (Complaint, ¶ 74). Since Plaintiff Chiu alleges four violations by alleging he attempted to purchase a Land Rover vehicle at four dealerships, to have the “same” damages as Plaintiff each member of the class would be seeking statutory penalties for four violations. The amount of statutory penalties at issue is \$17,024,000. $(1,064 \times 4 \times \$4,000 = \$17,024,000)$.¹

11. Plaintiff seeks punitive damages, special damages, and general damages, as well as statutory penalties. (Complaint, Prayer for relief, page 23.)

12. In addition to penalties and damages, Plaintiff seeks his attorney fees pursuant to California Civil Code § 52 (Complaint, Prayer for relief, page 23.)

13. Plaintiff seeks injunctive relief requiring that Defendants sell Land Rover vehicles to him and the putative class. (Complaint, ¶¶ 62-64). “In actions

¹ Indeed, the \$5,000,000 jurisdictional bar would still be met so long as the remaining 1,063 members of the putative class averaged 1.18 violations each. Put another way, if only 184 members of the putative class had exactly two violations and every other member besides Plaintiff had only one violation, the amount in controversy on statutory penalties alone would still exceed \$5,000,000.

1 seeking declaratory or injunctive relief, it is well established that the amount in
 2 controversy is measured by the value of the object of the litigation.” *Cohn v.*
 3 *Petsmart, Inc.*, 281 F.3d 837, 840 (9th Cir. 2002) (quoting *Hunt v. Wash. State*
 4 *Apple Adver. Comm’n*, 432 U.S. 333, 347 (1977)). That is, in calculating the
 5 amount in controversy, the court includes the value of the requested injunctive
 6 relief to either party. *See Corral v. Select Portfolio Servicing, Inc.*, 878 F.3d 770,
 7 775 (9th Cir. 2017) (holding that if either the benefit to the plaintiff or the cost to
 8 the defendant of an injunction exceeded the jurisdictional amount, then the
 9 amount-in-controversy requirement is met). The object of the litigation here is
 10 1,064 new Land Rover vehicles, and the lowest priced new Land Rover vehicle is
 11 the Discovery Sport, which has a manufacturer suggested retail price of \$37,795.²
 12 The value of the object of the litigation and the amount in controversy, therefore, is
 13 \$40,213,880 (1,064 x \$37,795 = \$40,213,880).

14 14. The amount in controversy is greater than \$5,000,000.

15 **Diversity of Citizenship**

16 15. Plaintiff is a Citizen of the State of California. (Complaint, ¶ 12.)

17 16. Defendant Jaguar Land Rover North America, LLC is a limited
 18 liability company organized and existing under the laws of the State of Delaware.
 19 Its principal place of business is in New Jersey. The sole member of the LLC is
 20 Jaguar Cars Limited, a private limited company incorporated under the laws of
 21 England and Wales with its principal place of business in Coventry, United
 22 Kingdom. Neither Jaguar Land Rover North America, LLC nor its sole member is
 23 a citizen of the State of California.

24 17. Defendant British Motor is a California corporation with its principal
 25 place of business in California, and is thus a citizen of the State of California.
 26 (Complaint, ¶ 18.)

27
 28 ² See <https://www.landroverusa.com/vehicles/range-rover/models.html> (last visited Aug. 31, 2018).

1 18. Accordingly, minimal diversity exists for the purposes of CAFA.

2 19. Based upon the allegations set forth in plaintiffs' complaint, this Court
3 has original jurisdiction over this class action matter as both the amount in
4 controversy and diversity requirements of 28 U.S.C. § 1332(d) are satisfied, and
5 removal is proper pursuant to 28 U.S.C. §§ 1441(a) and 1453(b).

6
7 DATED: August 31, 2018

SCALI RASMUSSEN

8
9 By: /s/ Jade F. Jurdi

10 CHRISTIAN J. SCALI, ESQ.

11 MONICA J. BAUMANN, ESQ.

12 JADE F. JURDI, ESQ.

13 MADELEINE K. LEE ESQ.

14 Attorneys for Defendant,

British Motor Cars Distributors, Ltd

dba Land Rover San Francisco

PROOF OF SERVICE

I am a citizen of the United States. My business address is Scali Rasmussen, 980 9th St., Sacramento, CA 95814. I am employed in the County of Sacramento where this service occurs. I am over the age of 18 years, and not a party to the within action.

On the date below, according to ordinary business practice, I served the foregoing documents described as:

**NOTICE OF REMOVAL OF ACTION
PURSUANT TO 28 U.S.C. §441(a) ORIGINAL JURISDICTION**

on the interested parties to this action in the manner described below and addressed as follows:

Gary R. Carlin, Esq.
Brent S. Buchsbaum, Esq.
LAW OFFICES OF CARLIN & BUCHSBAUM, LLP
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Long Beach, CA 90802
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brent@carlinbuchsbaum.com
Attorneys for Plaintiffs *Paul Chiu and Class Members*

- ☒ BY MAIL: I am readily familiar with my employer's business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary course of business. On this date, I placed the document(s) in envelopes addressed to the person(s) on the attached service list and sealed and placed the envelopes for collection and mailing following ordinary business practices.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **August 31, 2018** in Sacramento, California.

Zachary Hoffman
Declarant

/s/ Zachary Hoffman
Signature